APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,977	03/19/2002	Francis Emmerson	042933/308282	5510

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER
SAX, STEVEN PAUL

ART UNIT	PAPER NUMBER
2174	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/099,977	EMMERSON ET AL.
	Examiner	Art Unit
	Steven P. Sax	2174

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>25 April 2007</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>13-18 and 20-44</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>13-18, 20-44</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☒ All   b) ☐ Some * c) ☐ None of:

      1. ☒ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. 1/3/07

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

1.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

2.   Claims 13 - 18, 20 - 44 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Roke Manor Research Limited ("Roke Manor"; GB #2 349 548 A) in

view of Red Fig Limited ("Red Fig"; GB #2 344 491 A) and Halpern et al (6282711).

As per independent claim 13, directed to a "client-server system" (see also the

"client terminal" of independent claim 14), Roke Manor's Downloading software to

mobile telecommunication users discloses a "client terminal" having a "portable radio

communication device" and "authentication means" comprising "means for checking the

validation data of the content downloaded from the server". As seen in fig 1, network

subscribers 16 using a variety of mobile communication devices such as mobile phone

or PDAs are permitted to contact a network operator 12 via a base station (see page 4,

paragraphs 1,2), so that software is sent to the subscriber site. Then, "content

downloaded from the server" is subject to "validation" by "checking", by means of an

authentication code which enables the Java ™ class software to run. In receiving this

authentication code, the Roke Manor "device" receives "validation data" such that the

received software is to be "identifiable by said authentication means as originating from

the said server", since only the correct "server" for Roke Manor's software would have

the correct authentication code. By this data, the client knows that it is dealing with the

actual and proprietary network operator, and not some entity that might have produced

a retransmission of the code *per se* for the software.

Roke Manor further teaches the use of "menu applications" that provide "a user selectable direct download link", in the form of a list that may appear in a menu type format (page 5, paragraph 3). Such a list will invariably appear as "a sub-menu" in the overall "menu" hierarchy of the mobile communication device.

Once the Roke Manor subscriber 16 has made a selection, it is properly enabled by the authentication Code, which permits the "client terminal" to know that the "user" is properly established in accepting and running the software that has been "downloaded" as "content" from the "server', which is ultimately the network operator 12's interface with the user.

The overall "content" transmission in Roke Manor may be further characterized as simply "content which comprises validation data and other data stored at the server", since the authentication code is part of that "content" transmission. The communications established in Roke Manor are essentially a connection of the network operator 12 with a mobile telecommunications device 16 (fig 1), for both "validation" and "other data stored at the server", and the traffic between these two network entities is such that the "validation data and the other data are downloaded from the server together in a single data stream", when "data stream" is reasonably interpreted as to refer to the communication connecting to the network operator 12, and "downloaded...together" is interpreted as the coexistence of the two kinds of "content" that are delivered from network operator 12 to device 16. Roke Manor and Red Fig do not specifically go into the details that the data stream is a single downloaded file per se, but do mention efficient mutual downloading of the validation data and other data.

Furthermore, Halpern et al do show downloading validation data and other data together as a single download file from the server, for efficient mutual downloading. It would have been obvious to a person with ordinary skill to have the validation data and other data together as a single download file, in the combination of Roke Manor and Ref Fig, because it would allow efficient mutual downloading of the validation and other data.

Roke Manor, while identically disclosing the use of a Java ^{TM} platform for retrieved software, does not explicitly teach that a "browser application controls the radio communication device to transmit a signal to connect to the server". However, Red Fig specifically discloses Browsinq the Internet using a mobile telephone, so as to obtain Variable data for HTML pares, accessed via a URL (Abstract). A server process 30 in Red Fig (see pages 7 - 8; fig 2) responds to the URL. HTML pages are an example of "content" that may be directly "downloaded from the server" in Red Fig.

Thus, it would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to operate the user-selectable interface for software retrieval found in Roke Manor via Red Fig's "browser", so that the standard formats of both HTML and Java would have a well-understood channel by which to pass, in obtaining "content" at a "radio communication" linked site.

Regarding claims 15 and 21, when Roke Manor has acquired, authenticated, and installed the software obtained by a subscriber, "storing the downloaded content to a memory of the terminal" takes place, as "default."

Regarding claims 35-39, in addition to that mentioned for claims 15 and 21, this "content is installed"

Regarding claims 16 and 22-24, in the combination of Roke Manor and Red Fig, a "download transport protocol" of "HTTP" is used (as in Red Fig), and Roke Manor's use of an authentication code reads upon the claimed "header" since in an HTTP environment such as Red Fig's, the code for a page has the authentication information incorporated into it in a way that it leads other portions of the page and is a "header".

Regarding claims 25-29, the Roke Manor authentication code "indicates to the authentication means whether the content is accepted by the portable radio communication device", since the code is needed to accept and run the "content" that has been downloaded.

Regarding claims 30-34, since the "content" will not run without the authentication code, "the content is rejected by the authentication means" in such a case, when it would not "originate from the server" that should have it in its correct form.

Independent claim 17 contains limitations generally found in independent claims 13, 14 as noted above, including "menu applications" and "a user selectable direct download link" (Roke Manor), along with a "browser application" that "controls the radio communication device to transmit a signal to connect to the server" (Red Fig).

Independent claim 18 is rejected for a similar line of reasoning to that developed for claim 17, with its "checking security of the content" further reading upon Roke Manor's authentication code. This ability to "determine whether or not the downloaded

content is from a trusted server" (independent claim 20) has been treated with respect to claim 13 above in authenticating at the receiving end the user's entitlement to operate the software, Roke Manor is also allowing the "client terminal" to verify that the sender is indeed the one intended; that of the network operator.

Regarding claims 40-44, the validation data and the other data are downloaded concurrently from the server (Red Fig).

3.   Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Applicant argues combining the downloading of the validation data and other data, and the sequence of downloads suggested in the art. Roke Manor and Red Fig do not teach away from the single download file, and Halpern et al is brought it to show this feature explicitly. Applicant is invited to contact Examiner to discuss claim interpretation.

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the
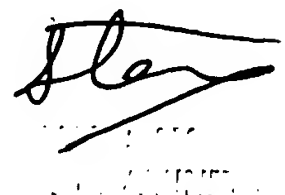
shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

5.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Steven P. Sax whose telephone number is (571) 272-

4072. The examiner can normally be reached on Monday thru Friday, 8:30 AM - 5:00

PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.